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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,094	10/01/2001	Brian Gaudet	0023-0040	4704
26615	7590	03/08/2004	EXAMINER	
HARRITY & SNYDER, LLP 11240 WAPLES MILL ROAD SUITE 300 FAIRFAX, VA 22030			HUYNH, KIM NGOC	
			ART UNIT	PAPER NUMBER
			2182	6

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/966,094

Applicant(s)

GAUDET, BRIAN

Examiner

Kim Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 9-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 3 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of species I (claims 1-3, 5-8, 15-16, 19-21) in Paper No. 5 is acknowledged. The traversal is on the ground(s) that these species are not mutually exclusive from one another. This is not found persuasive because species 1 and 2 are related as combination and subcombination. In the instant case, the combination (species 1) as claimed does not require the particulars of the subcombination (species 2) as claimed because the combination claims do not rely on the specific gap inserter of the subcombination. The subcombination has separate utility such as digital to digital format converter.

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 4 and 9-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

The limitations of claims 15, 16, and 19-21 are found in claims 2, 3, 5, and 8. Claims 15, 16, and 19-21 are also withdrawn along with non-elected claims 4, 9-23 pending the allowance of any generic or linking claims.

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Please note claim 6 belongs to species 2 (claim 6 depends from claim 4 and further limits the gap inserter) and will not be consider. Therefore, only claims 1-3, 5-8 will be consider in this office action.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Yu (US 2001/0012288 A1).

Yu discloses (Figs. 6-7) a device for inserting escape character into a multi-byte wide data stream comprising: a gap inserter component configured to receive blocks (data frames, see Fig. 10 received by TX FIFO 18 and par. 78, 98-104) of data from the mulit-byte wide data stream (data from physical layer interface 21), the gap insertion component rearranges the bytes of a block of data stream by inserting gaps into the blocks at locations adjacent to predetermined bytes (LAPS frame encapsulation process and providing insertion of packet based info per Fig. 4, see par. 78, 159-167, 173, and 178 done via TX LAPS processing 22) and an escape character inserter inserting

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escape characters (transparency processing or octet stuffing, par. 166, 173-174 and 178) in each of the gaps inserted by the gap insertion component.

Claim 2, Yu discloses the predetermined bytes are bytes having a value coincident with predefined control characters (par. 166 and 178).

Claim 7, the predefined control character is used to delineate between information of the data stream (start/end Flags).

Claim 8, Yu discloses the escape character insert logically exclusive OR each of the bytes that have a value coincident with the predefined control characters with a constant (par. 178, 202-204, constant is 0x20).

### ***Allowable Subject Matter***

5. Claims 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims

6. The following is a statement of reasons for the indication of allowable subject matter

Claim 3 recites, inter alia, a device for inserting escape characters into a multi-byte wide data stream having a gap insertion component as in claim 1 wherein the gap insertion component further includes character specific gap inserter receiving the blocks of data and rearrange the blocks of data such that the output blocks of data includes the number of gaps equal to a required number of gaps and an expansion component

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connected to receive the output blocks from the gap inserter and rearrange the gaps in the output blocks to locations in the blocks adjacent to the predetermined bytes.

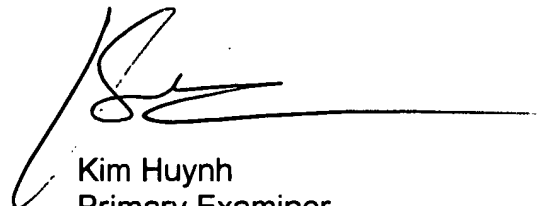
The references of record do not teach or suggest the aforementioned limitation, nor would it be obvious to modify those references to include such limitation.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hannan (US 4,506,303), Byrns (US 6,373,884), Christensen et al. (US 5,644,577 and 5,617,419), Aggarwal et al. (US 6,249,525), Schchar et al. (US 5,671, 223), Dabecki et al. (US 6,088,369), and Abrol et al. (US 2002/0141370 A1) disclose various escape character inserter devices for packet data communications.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Huynh whose telephone number is (703) 308-1678.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in dark ink, appearing to be 'Kim Huynh', with a long horizontal line extending to the right.

Kim Huynh  
Primary Examiner  
Art Unit 2182

KH  
February 26, 2004